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DA 99-298

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	Transmittal No. 72
Long-Term Telephone Number	)	Transmittal No. 73
Portability Tariff Filings of	)	CC Docket No. 99-35
Sprint Local Telephone Companies	)	

MEMORANDUM OPINION AND ORDER

Adopted: February 5, 1999

Released: February 5, 1999

By the Chief, Competitive Pricing Division:

I. INTRODUCTION

1. In this Memorandum Opinion and Order, we suspend for one day and set for investigation the tariff filed by Sprint Local Telephone Companies (Sprint) seeking to establish rates, terms, and conditions for the long-term number portability query service and end-user charges. Sprint filed its tariff transmittals on January 22, 1999 and January 26, 1999<sup>1</sup> with an effective date of February 6, 1999. On January 29, 1999, AT&T filed a petition to suspend and investigate.<sup>2</sup> On February 4, 1999, Sprint filed its reply.<sup>3</sup> The Bureau will issue a separate order designating issues for investigation.

II. BACKGROUND

2. On May 12, 1998, the Commission issued the *Third Report and Order*,<sup>4</sup>

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<sup>1</sup> On January 26, 1999, pursuant to authority granted in Special Permission No. 99-14 waiving section 61.58 of the Commission's rules, Sprint filed a revision to its January 22, 1999 long-term number portability tariff transmittal. See *Special Permission* No. 99-14 (rel. Jan. 25, 1999). See also 46 C.F.R. § 61.58.

<sup>2</sup> AT&T Petition to Reject or Suspend Tariff, filed Jan. 29, 1999.

<sup>3</sup> Sprint Reply to Petition to Reject or Suspend filed February 4, 1999.

<sup>4</sup> In the Matter of Telephone Number Portability, *Third Report and Order*, 13 FCC Rcd 11701, 11723 at para. 35 (1998) (*Third Report and Order*).

implementing section 251(e)(2) of the Communications Act of 1934, as amended,<sup>5</sup> and promulgated rules governing long-term number portability cost recovery. The Commission determined in the *Third Report and Order* that incumbent LECs may recover their carrier-specific costs directly related to providing long-term number portability in two federal charges: (1) a monthly number portability charge to commence no earlier than February 1, 1999, that applies to end-users;<sup>6</sup> and (2) a number portability query service charge that applies to carriers on whose behalf the incumbent LEC performs queries.<sup>7</sup> The Commission delegated authority to the Common Carrier Bureau (Bureau) to determine appropriate methods for apportioning joint costs among portability and nonportability services and to issue any orders to provide guidance to carriers before they file their federal tariffs.<sup>8</sup>

3. On December 14, 1998, the Bureau issued the *Cost Classification Order*, addressing the general standards by which incumbent LECs should identify the carrier-specific costs directly related to providing long-term number portability and discussing the methodologies for measuring the eligible number portability costs.<sup>9</sup> The Bureau also provided guidance to the incumbent LECs on the allocation of the eligible costs among the number portability end-user, pre-arranged query, default query, and database query charges. Finally, the Bureau discussed the specific cost support the incumbent LECs must provide with their tariff filings.

### III. DISCUSSION

4. We find that Sprint's long-term number portability tariff raises substantial questions of lawfulness and warrants an investigation of this tariff.<sup>10</sup> These questions include, but are not limited to, the following: whether Sprint's method of identifying eligible Operations Support Systems (OSS) costs is unreasonable; whether Sprint's calculation of its overhead factors is unreasonable; whether Sprint's overall level of costs for long-term number portability is unreasonable; whether Sprint's method for calculating its installation costs is

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<sup>5</sup> 47 U.S.C. § 251(e)(2); see Telecommunications Act of 1996, § 101(a), § 251(e)(2), Pub. L. No. 104-104, 110 Stat. 56 (1996). Section 251(e)(2) of the Act provides that the costs of providing number portability "shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission."

<sup>6</sup> *Third Report and Order*, 13 FCC Rcd at 11776, para. 142; see also 47 C.F.R. §§ 52.33(a), (a)(1).

<sup>7</sup> *Third Report and Order*, 13 FCC Rcd at 11778, para. 147; see also 47 C.F.R. §§ 52.33(a), (a)(2).

<sup>8</sup> *Third Report and Order*, 13 FCC Rcd at 11740, para. 75.

<sup>9</sup> In the Matter of Telephone Number Portability, Cost Classification Proceeding, CC Docket No. 95-116, *Memorandum Opinion and Order*, DA 98-2534 (Com. Car. Bur. rel., Dec. 14, 1998) (*Cost Classification Order*).

<sup>10</sup> 47 U.S.C. § 204(a).

unreasonable; whether Sprint's arrangement for the lease of software constitutes an unreasonable practice; and whether Sprint's costs of preparing for wireless portability are unreasonable. Moreover, we find that AT&T's petition to suspend and investigate Sprint's long-term number portability tariff raises questions of lawfulness, similar to those we identified, and further supports an investigation of this tariff.

5. The rate proposals and the issues raised in Sprint's tariff filing for long-term number portability are novel and complex. This is the first time Sprint has filed a tariff and supporting documentation for both query services and an end user charge. We are therefore unable at this time to limit our investigation to discrete rates or provisions of Sprint's number portability filing. We will, accordingly, suspend Sprint's tariff filing for one day and initiate an investigation into the lawfulness of the proposed tariff. The specific issues that will be the subject of the investigation will be identified in an upcoming designation order and may include, but may not be limited to, the issues identified in this Order. We may also, by order, identify discrete issues that do not warrant further investigation.

#### IV. *EX PARTE* REQUIREMENTS

6. This investigation is a permit-but-disclose proceeding and subject to the requirements under section 1.1206(b) of the rules, 47 C.F.R. § 1.1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 C.F.R. § 1.1206(b)(2), as revised. Other rules pertaining to oral and written presentations are set forth in section 1.1206(b), as well.

#### V. ORDERING CLAUSES

7. ACCORDINGLY, IT IS ORDERED that, pursuant to section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91 and 0.291, the tariff filed by Sprint Local Telephone Companies, IS SUSPENDED for one day and an investigation IS INSTITUTED.

8. IT IS FURTHER ORDERED that, pursuant to sections 204(a) and 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 204(a) and 154(i), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91 and 0.291, Sprint Local Telephone Companies SHALL KEEP ACCURATE ACCOUNT of all amounts received that are associated with the rates that are subject to this investigation.

9. IT IS FURTHER ORDERED that Sprint Local Telephone Companies SHALL FILE a supplement advancing the currently scheduled effective date to February 6, 1999, and at the same time file a supplement reflecting the one day suspension. For this purpose, we waive sections 61.58 and 61.59 of the Commission's rules, 47 C.F.R. §§ 61.58, 61.59. Carriers should cite the "DA" number on the instant Order as the authority for the filings.

10. IT IS FURTHER ORDERED that Sprint Local Telephone Companies SHALL FILE this supplement no later than five business days from the release date of this Order.

11. IT IS FURTHER ORDERED that the petition to reject or suspend the Local Number Portability Tariff Filing IS GRANTED to the extent indicated herein and otherwise IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink that reads "Jane E. Jackson" followed by a stylized monogram or initials "KMM".

Jane E. Jackson  
Chief, Competitive Pricing Division  
Common Carrier Bureau